

R E M A R K S

Claims 1-5, 7, 9-29, 31-34, 36, and 38-72 remain pending in the application. Claims 6, 8, 30, 35 and 37 are cancelled without prejudice or disclaimer. Various claims are amended for reasons discussed in detail below. These changes involve incorporation of subject matter from dependent claims into independent claims, and are believed not to introduce new matter. Accordingly, entry of the Amendment, and full consideration thereof, are respectfully requested.

Based on the above Amendment and the following Remarks, Applicants respectfully request that the examiner reconsider all outstanding objections and rejections, and withdraw them.

The September 9, 2005 Office Action

The Office Action dated September 9, 2005 includes a minor rejection of Claim 29 under 35 U.S.C. § 112, ¶ 2 and a rejection of all Claims 1-72 under 35 U.S.C. § 102 based on “An XML-based, 3-tier Scheme for integrating Heterogeneous Information Sources to the WWW,” *Proceedings of Tenth International Workshop on Database and Expert Systems Applications*, 1999, pp. 706-710 (Petrou *et al.*).

Applicants amend Claim 29 to correct the antecedent basis issue noted by the examiner. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, ¶ 2 are respectfully requested.

Concerning the rejection under 35 U.S.C. § 102, the Office Action asserts that 72 claims are “clearly anticipated,” explaining that **Petrou et al. teach a system and method for using an XML-based structure for both a protocol layer and application data, in a client/server environment.** No further explanation is offered for the rejection of seventy-two (72) claims, and it is not even clear which portion(s) of the Petrou *et al.* article are supposed to disclose Applicants’ various claim features.

Accordingly, Applicant respectfully traverses the rejection, submitting that Petrou *et al.* do not disclose or suggest the claimed invention. However, to expedite prosecution, Applicants make the following amendments:

- incorporate the subject matter of Claim 8/6 into independent Claim 1.
- incorporate the subject matter of Claim 37/35/30 into independent Claim 29.

- incorporate the subject matter of Claim 37/35/30 into independent Claim 58.
- cancel dependent Claims 6, 8, 30, 35, and 37.

Various other amendments are made to avoid antecedent basis issues, resolve claim dependency issues that arise from cancellation of the claims noted above, and make claim language more readable. Claim 1 is in many ways representative of the independent claims:

1. (Currently Amended) A method for using XML for both a protocol layer and application data, the protocol layer and application data having an XML-based structure, the method comprising:

initiating a connection by a client to a server *by initiating a first XML document and writing said first XML document directly to a TCP/IP socket connection;*

responding by said server to said client by *initiating a second XML document so as to indicate that said connection has been established;*

receiving a request from said client at said server for service;

responding by said server to said client by providing said service; and terminating the connection by said client. (emphasis added)

The Office Action appears to assert that Petrou's use of XML matches that claimed by Applicants. However, Applicants respectfully disagree, and submit that there is little more than a passing superficial similarity between Applicants' claims and Petrou's architecture.

Petrou *et al.* appear to disclose a use of XML, atop *http*, atop TCP/IP. Thus, it appears that *http*, and not XML as claimed, is the entity in the Petrou *et al.* architecture that could reasonably be said to correspond to Applicants' claimed "protocol layer." This observation controverts the Office Action's assertion that Petrou *et al.* teach an XML-based structure for both a protocol layer and application data.

Perhaps more significantly, there is an *http* layer between Petrou's protocol layer and the TCP/IP layer. In contrast, Applicants' independent claims now recite that at least a first XML document, one that initiates a connection between a client and a server, is written directly to a TCP/IP socket connection. Applicants submit that Petrou's arrangement, involving an *http* layer between Petrou's XML layer and a TCP/IP layer, cannot fulfill this requirement that has been in Applicants' (dependent) claims from their initial filing.

Accordingly, for at least the foregoing reasons, it is submitted that amended independent Claims 1, 29 and 58, and therefore all their dependent claims, are allowable over the Petrou *et al.*

article. Therefore, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102 are respectfully requested.

Moreover, Applicants submit that the dependent claims are also allowable based on their own merits. For example:

- Claim 4 recites a feature that allows repeated iteration of request submission and request satisfaction. Since Petrou *et al.* appear to rely on http as the protocol rather than on native XML, Petrou *et al.* are limited by *http*'s characteristic initiation and termination of connections. That is, *http* has its own approach to initiating and terminating connections that is very limited and does not permit iteration as described herein. In contrast, Applicants' approach uses XML documents, not *http*, to initiate and close connections.
- Claim 11 recites the augmentation of XML to include meta-tags. Applicants submit that this enhancement is not disclosed or taught by Petrou *et al.*
- Likewise, Claim 21 recites the augmentation of XML to handle descriptive verbosity by using an index that establishes a co-reference to an already-fully described attribute. Applicants submit that this enhancement is not disclosed or taught by Petrou *et al.*

Accordingly, before another Office Action is issued, careful analysis and consideration of the dependent claims is respectfully requested.

Speaking more generally, the Office Action provides absolutely no commentary on which elements in the Petrou *et al.* article are supposed to correspond to the limitations expressly recited in the rejected claims, a practice violating established principles of patent examination:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, ***the particular part relied on must be designated as nearly as practicable.*** The pertinence of each reference, if not apparent must be clearly explained and ***each rejected claim specified.***¹

... The goal of examination is to ***clearly articulate any rejection early in the prosecution process*** so that the applicant has the opportunity to provide

¹37 CFR § 1.104(c)(2) (emphasis added).

evidence of patentability and otherwise reply completely at the earliest opportunity. ...²

Applicants submit that the foregoing explanations clearly demonstrate that proper rejection under 35 U.S.C. § 102 has not been made in the Office Action, and that the pending claims are therefore allowable. If, however, the examiner persists in rejecting any claim, Applicants earnestly request that the examiner specifically identify, by figure number and reference numeral and/or by column and line number, which items in the cited art are being relied upon to teach each claim limitation. This specific correlation between disclosed items and claim limitations is needed in order to expedite examination and provide Applicants a fair opportunity to evaluate any issues and respond accordingly.

Conclusion

All objections and rejections have been complied with, properly traversed, or rendered moot. Thus, it now appears that the application is in condition for allowance. Should any questions arise, the examiner is invited to call the undersigned representative so that this case may receive an early Notice of Allowance.

Favorable consideration and allowance are earnestly solicited.

Respectfully submitted,

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²MPEP § 706 (emphasis added).